

REMARKS

Claims 34-58 and 65-103 are pending. Claims 34-58, 65-70, 74, and 79-103 stand withdrawn from further consideration as being drawn to a non-elected species. Upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

Claims 71, 72, and 75 have been amended. Support for the claim amendments can be found throughout the application, including the originally-filed claims. Importantly, no new matter has been added to the claims. The amendment to the claims should not be construed to be an acquiescence to any of the rejections. The amendments to the claims are being made solely to expedite the prosecution of the above-identified application. The Applicant reserves the right to further prosecute the same or similar claims in subsequent patent applications claiming the benefit of priority to the instant application. 35 USC § 120.

The specification has been amended to address the Examiner's objections to the specification and the amendments made in the previous Amendment and Response dated January 24, 2004.

Objection to the Disclosure

The amendments made to the specification in the previous Amendment and Response dated January 24, 2004, are objected to by the Examiner for adding new matter. Specifically, the Examiner contends that adding definitions for the abbreviations "PPCS", "TPPCS", "BPCS", and "BTCS" and removing a paragraph that further defines the term "alkyl" constitutes new matter. The Applicants respectfully disagree with this objection, however, solely to expedite the prosecution of the present application, the Applicants have amended the specification to remove definitions for PPCS, TPPCS, BPCS, and BTCS, and to return the paragraph that further defines the term alkyl.

Accordingly, the Applicants respectfully request the removal of the objection under 35 U.S.C. 132 to the amendments made in the previous Amendment and Response.

The disclosure is objected to by the Examiner because on page 6, line 9, of the specification it is stated that R₈ is as defined above, but no definition of R₈ precedes that portion of the specification. The Applicants have amended the specification to refer to the definition of R₈ as being defined below, where it appears on page 7, lines 17-19, of the specification.

Accordingly, the Applicants respectfully request the removal of the objection to the disclosure by the Examiner.

With the removal of the definitions for PPCS, TPPCS, BPCS, and BTCS, the Applicants anticipate the Examiner will reinstate her objection to the disclosure that she made in an Office Action dated August 26, 2003. The Applicants would like to point out to the Examiner the list of particularly preferred compounds of formula 1 that appears on page 2 and continues into page 3 of the specification. The Applicants respectfully submit that one of ordinary skill in the art, i.e. someone having a Ph.D. in organic chemistry, would be able to determine the meaning of the abbreviations PPCS, TPPCS, BPCS, and BTCS from this list. For example, one of ordinary skill in the art would know that PPCS stands for 4-pentylphenyl chlorosulfate (see page 2, line 23) and that TPPCS would then stand for 4-tert-pentylphenyl chlorosulfate (or p-tert-amylphenyl chlorosulfate (see page 2, line 22), that BPCS stands for p-tert-butylphenyl chlorosulfate (see page 2, line 22), and that BTCS stands for p-tert-butyl chlorosulfate. Therefore, the Applicants respectfully request favorable consideration of this argument should the Examiner want to reinstate her objection to the disclosure.

Rejection of Claims Under 35 U.S.C. § 112, 1st

Claims 71-73 and 75-78 stand rejected under 35 U.S.C. § 112, 1st, based on the Examiner's contention that although they are enabled for the examples disclosed, they are not enabled for the genus of compounds as represented by formulas 2 and 3. The Applicants respectfully traverse this rejection.

Independent claims 71 and 75, as amended, define X as OH, F, Cl, or Br; Y as O, S, or Se, and Z as an optionally substituted alkylphenyl, cycloalkyl, arylphenyl, or -(CH₂)_m-R₈₀, (for claim 71), or Z as an optionally substituted branched alkyl or unbranched C₂-C₇ alkyl, cycloalkyl, aryl, or -(CH₂)_m-R₈₀, (for claim 75). The Applicants respectfully submit that claims 71 and 75, and claims dependent thereon, are enabled by the specification. For example, in examples 1-5 in

the Examples section of the specification, X is OH or Cl, Y is O, and Z is alkyl, aryl, or alkyl substituted aryl. Therefore, the scope of the claims is enabled by the disclosure in the specification.

Accordingly, withdrawal of the rejections under 35 U.S.C. 112, first paragraph, is respectfully requested.

**Claim Rejections Based on the Judicially-Created
Doctrine of Obviousness-Type Double Patenting**

Claims 71-73 and 75-78 stand provisionally rejected under the judicially-created doctrine of obviousness-type double patenting, based on the Examiner's contention that they are not patentably distinct from claims 39-64, 66-74, and 89-91 of copending U.S. Patent Application No. 09/405,269 (the "'269 application"). Therefore to expedite prosecution, the Applicants submit herewith a Terminal Disclaimer, corresponding to the '269 application cited by the Examiner, that complies with the requirements of 37 CFR 1.321(c). The Disclaimer is accompanied by the appropriate fee, and the Applicants believe that it complies with the requirements of 37 CFR 1.321(c).

Accordingly, withdrawal of the rejections under the judicially-created doctrine of obviousness-type double patenting is respectfully requested.

Fees

The Applicants believe they have provided for any required fees in connection with the filing of this paper. Nevertheless, the Director is hereby authorized to charge any additional required fee to our Deposit Account, **06-1448**.

Conclusion

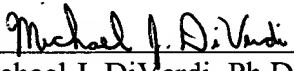
In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Attorney or Agent would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Respectfully submitted,
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